*** THE HON'BLE SRI JUSTICE V.ESWARAIAH**

+ WRIT PETITION NO.24056 OF 2006

% 01-03-2007

K.Manoj Reddy.

...Petitioner.

Versus

$ The Commissioner of Police, Cyberabad and others.

...Respondents.

! Counsel for the Petitioner : Mr. D.V. Sitharam Murthy, Advocate.

^ Counsel for Respondents: Government Pleader for Home

< Gist:

> Head Note:

? Cases referred:

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.24056 of 2006

Between:

K.Manoj Reddy.

.. PETITIONER

and

The Commissioner of Police,
Cyberabad, Ranga Reddy District and others.

.. RESPONDENTS

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

ORDER:

Heard the learned counsel for the petitioner as well as the learned

Government Pleader for Home appearing on behalf of respondents.

It is the case of the petitioner that he is the Managing Director of Huzurabad Surya Real Estates Private Limited with its registered office at Vadera Complex, Dilsukhnagar, Hyderabad.

It is stated that certain written complaints have been lodged before the concerned Station House Officer alleging that the petitioner, having received certain initial deposit and instalments, refused to register the plots and postponed registration. Thus, it has been alleged that the petitioner was having dishonest intention to cheat the customers by not registering the plots. Accordingly, on various complaints filed by the customers, different cases in respective crime numbers have been registered by the Station House Officer, Saroornagar police station, for the offences under Sections 420 and 406 IPC. It is stated that nearly about 700 subscribers have made complaints and 20 cases have been registered against the petitioner and others and the petitioner is being arrested in one case, he was released on bail. However, the respondents-authorities are resorting to arrest him in the other similarly situated cases. Therefore, the action of the respondents in registering separate cases against each and every written complaint of the subscribers, is illegal and arbitrary and violation of provisions of Sections 50, 56, 57, 161, 162, 167, 437 Cr.P.C. and also provisions of Articles 14 and 21 of the Constitution of India.

It is stated that as the nature of the offences is one and the same, the respondents can investigate by registering one comprehensive crime and the subsequent FIRs can be taken as the statements under Section 161 Cr.P.C.

A counter has been filed by the 1st respondent stating that the petitioner is the Managing Director of Huzurabad Surya Real Estate Private Limited and its registered office is situated at Dilsukhnagar, Hyderabad, under the limits of Saroornagar Police Station. The petitioner has floated about 12 real estate ventures in various villages of Hayathnagar Mandal in Ranga Reddy District and collected huge amounts from the customers by way of instalments

towards the plots in the said ventures and subsequently, the said company was abruptly closed in the first week of September, 2006, cheating thousands of its customers.

The said company under the management of the petitioner used to give wide publicity in the newspapers and thereby attracted gullible people. By seeing the advertisements and colourful broachers issued by the company, the people from various Districts including twin cities believed that it was a genuine company. The petitioner and his elder brother one Sri K.Sampath Reddy and other staff, agents and henchmen fabricated fake and forged documents and sale deeds by impersonating pattedars of lands claiming to have purchased the lands in the villages of Pedda Amberpet, Munuganuru, Koheda, Kuntluru, Bhagh Hayath Nagar and Pasumamula villages in Hayathnagar Mandal of Ranga Reddy District and basing on such fabricated, fake and forged documents, they prepared fictitious layouts in about 12 ventures. It is stated that after receiving huge amount of about 20 to 30 crores, the company was closed. After having come to know about the cheating committed by the petitioner's company, the customers started lodging complaints at Saroornagar police station.

It is further stated that basing on the written complaints, so far, 142 cases have been registered at Saroornagar and Hayathnagar police stations and investigation has been taken up. During the course of investigation, the petitioner, who is A-1 and his brother-A-2 evaded arrest by police and surrendered before the II Metropolitan Magistrate's court, Cyberabad at L.B.Nagar on 15-09-2006 and
29-09-2006 respectively. The other six accused surrendered on
10-10-2006 and they were remanded to judicial custody. As on
22-02-2007, 109 cases have been registered and filed before the concerned Magistrates and in certain cases Prisoner's Transit Warrants were obtained and the accused persons were produced before the court and their remand

was regularized. In 32 cases, the same process is applied.

It is stated that out of 12 ventures, in eight ventures, namely, 1. Venkateshwara Colony (Munuganuru), 2. Srinivas Colony (Kuntluru village), 3. Balaji Colony (Pasumamula), 4. Sapthagiri Colony (Pedda Amberpet), 5. Venkatadri Colony (Pedda Amberpet), 6. Venkata Ramana Colony (Munganuru), 7. Thirumala Colony, (Bagh Hayathnagar) and 8. Ravi Teja Colony Phase-II (Pedda Amberpet), the evidence, so far, collected goes to show that the sale deeds through which the petitioner is said to have purchased lands from pattedars were proved to be fabricated, forged and fake documents.

Insofar as remaining four other ventures are concerned, the investigation is going on to establish the genuinity or otherwise of the documents. It is stated that the investigation so far made goes to show that the petitioner has not purchased the land and with a view to cheat the customers only, they have fabricated and forged certain documents. It is stated that the petitioner and others have collected approximately 21 crores from the customers by way of instalments from the year 2000 onwards.

It is stated that the petitioner and his brother are the main persons, who played active role in the commission of offence of fabrication, creating of fake sale deeds, impersonation, cheating etc., and as such, their names were also mentioned in various crimes and cases have been registered against them and memos were also filed before the court. It is stated that as the averments made in the written complaints disclose that the petitioner and others have committed cognizable offences, the cases have been registered. It is stated that the investigation so far made reveals that nearly 1700 customers have been cheated by the petitioner's Real Estate Company and, therefore, various cases have been registered. As against 142 cases registered against the petitioner and other accused, in 109 cases the arrest has been regularized by obtaining Prisoner's Transit Warrants before the concerned Magistrate. It is further stated that the petitioner has floated 12 different ventures and took the

customers to the alleged ventures situated at different places on different dates at different points of time, each such act constitutes a different offence. Therefore, it cannot be said that the nature of the crime is similar but not different.

The main thrust of the argument of the learned counsel for the petitioner is that instead of resorting to different crimes for the same course of transaction, the respondent authorities ought to have registered only one crime and therefore, all the crimes may be clubbed as one comprehensive crime.

In a case of this nature where financial scams have been committed in the course of selling the plots, all the particulars i.e., the date of purchase, mode of payment and the customers, will be different and distinct. Therefore, I am of the opinion that each and every written complaint of a subscriber constitutes an offence.

Under Section 219 of Code of Criminal Procedure, when a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three.

Therefore, after completing investigation and after filing charge-sheet, three cases can be clubbed together and try under Section 219 of the Criminal Procedure Code, but it does not mean that all the crimes in question, can be construed as one offence by registering one comprehensive crime.

The learned counsel appearing for the petitioner submits that several cases have been registered and as and when he is getting bail, he is being arrested in other offences and, therefore, it amounts to deprivation of his rights guaranteed under Articles 14 and 21 of the Constitution of India.

I am unable to accept the said contention as each and every crime constitutes an offence, though the nature of the crime is similar in nature.

Article 21 of the Constitution of India postulates that no person shall be deprived of his personal liberty except according to the procedure established

by law.

In the above facts and circumstances of the case, I am of the opinion that each and every complaint of a subscriber constitutes an offence and as such, it cannot be said that there is infraction or infringement of right guaranteed under Article 21 of the Constitution of India.

Therefore, I do not see any merits in this writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

_____

01-03-2007

Prv